

1
2
3
4
5 **UNITED STATES DISTRICT COURT**
6 **DISTRICT OF NEVADA**

7 KENNETH MANNING,

8 *Plaintiff,*

9 vs.

10 STATE OF NEVADA, *et al.,*

11 *Defendants.*
12
13

2:13-cv-00681-APG-VCF

ORDER

14 Plaintiff, a Nevada state inmate, has filed an application (#1) to proceed *in forma*
15 *pauperis* seeking to initiate a civil rights action.

16 The pauper application is incomplete. Both (a) a financial certificate on the required
17 form properly completed and executed by an authorized institutional officer and (b) a
18 statement of the plaintiff's inmate trust fund account for the past six months are required by
19 28 U.S.C. § 1915(a)(2) and Local Rule LSR1-2. Plaintiff, a frequent litigator in this district, did
20 not comply with these requirements. He attached a financial certificate for a state court form,
21 which is not sufficient. He further did not attach a copy of his inmate trust fund account
22 statement.

23 Plaintiff further failed to comply with multiple prior orders of this Court regarding his
24 having accrued three or more "strikes" for purposes of 28 U.S.C. § 1915(g). For example, in
25 No. 3:06-cv-00421-RCJ-VPC, the Court found that plaintiff had accrued three or more strikes;
26 and the Court ordered:

27 IT FURTHER IS ORDERED that if plaintiff, while
28 incarcerated, seeks to proceed *in forma pauperis* in any future
cases in federal court, he shall attach a copy of this order to the

1 application or shall plainly inform the Court in such application that
2 he has been held subject to the restrictions of 28 U.S.C. §
3 1915(g). Failure to do so may result in the denial of the
application and dismissal of the new action without prejudice for
failure to comply with the order of this Court.

4 No. 3:06-cv-00421-RCJ-VPC, #3, at 2-3. Plaintiff did not attach a copy of a prior such order,
5 of which there are multiple examples. Nor did he plainly inform the Court in the pauper
6 application that he has been held subject to the restrictions of § 1915(g). This noncompliance
7 with the prior orders of the Court provides an additional basis for a dismissal without prejudice
8 of this in any event improperly-commenced action.

9 If plaintiff continues to fail to comply with the multiple orders of this Court requiring that
10 he so advise the Court of his § 1915(g) status, the Court may find plaintiff in contempt of court
11 and refer the matter to correctional authorities for consideration of imposition of sanctions for
12 institutional major violation MJ48.¹

13 It does not appear from review of the allegations presented that a dismissal without
14 prejudice of the present improperly-commenced action would lead to a promptly-filed new
15 action being untimely under the applicable two-year statute of limitations. The complaint
16 alleges that the alleged constitutional violations occurred on May 27, 2012.

17 IT THEREFORE IS ORDERED that the application to proceed *in forma pauperis* (#1)
18 is DENIED and that this action shall be DISMISSED without prejudice to the filing of a new
19 complaint on the required form in a new action together with either a new pauper application
20 with all required, and new, attachments or payment of the \$350.00 filing fee.

21 The Clerk of Court shall SEND plaintiff a copy of the papers that he filed along with the
22 complaint and pauper forms and instructions for both forms.

23 ////

24 ////

25
26 ¹Under MJ48 of the NDOC Administrative Regulations, a major violation may be committed by the
27 following: "Any violation of the Rules of Court, contempt of court, submission of forged or otherwise false
28 documents, submissions of false statements, violations of Rules of Civil Procedure and/or receiving sanctions
and/or warnings for any such actions from any court. Although not necessary for disciplinary purposes, any
Order from any court detailing such action shall be sufficient evidence for disciplinary purposes."

1 The Clerk shall enter final judgment accordingly, dismissing this action without
2 prejudice.

3 DATED: April 26, 2013

4
5 

6 _____
7 ANDREW P. GORDON
8 United States District Judge
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28